



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.11825 of 2017

Sakthivel, S/o.Kandasamy,
No.90/6, Arangan Nagar,
Theppakula Thottam, Karamadai Town,
Mettupalayam Taluk,
Coimbatore District.

... Petitioner

Vs

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Revenue Divisional Officer,
Coimbatore North,
Office of the Revenue Divisional Officer,
Coimbatore District.

3.The Tahsildhar,
Mettupalayam Taluk,
Mettupalayam,
Coimbatore District.

4.The Inspector of Police,
Karamadai Police Station,
Karamadai,
Mettupalayam Taluk,
Coimbatore District.

5.Thowheed Jamath,
Rep. by its President M.Mubarak Ali,
192, Kamarajar Road,
Karamadai 641 104.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents 1 to 4 herein to implement the orders passed by the 2nd respondent herein Na.Ka.No.5909/2016/A1, dated 14.12.2016.



5. Since the officials did not act on the repeated complaints made by the local residents, the fifth respondent started putting up a borewell near the shed, inspite of the objections raised by the residents of the locality. When the objectors were threatened with dire consequences and even to be killed, the area people were compelled to prefer a police complaint on 27.11.2016 to the 4th respondent. The said complaint was also of no avail.

6. Thereafter, due to the hectic efforts made by the local residents, finally the second respondent viz., The Revenue Divisional Officer, Coimbatore North initiated proceedings under Section 107 of Cr.P.C and conducted a peace committee meeting on 08.12.2016 in which the representatives of both sides participated. In the said meeting, both sides agreed for certain conditions and a decision was taken. The said decision was also communicated to both the parties vide proceedings of the fourth respondent dated 14.12.2016. Inspite of the same, the members of the fifth respondent group kept on violating the agreement entered during the peace committee meeting. Therefore, the petitioner has approached this Court by filing the present writ petition.

7. Heard Mr.G.Karthikeyan, learned counsel for the petitioner, Mr.A.Raja Mohammed, learned counsel for the fifth respondent and Mr.T.M.Pappiah, learned Special Government Pleader for the respondents 1 to 4.

8. Mr.G.Karthikeyan, learned counsel for the petitioner would submit that an unauthorized shed has been put up on the road and it has been converted as "Thowheed Jamath office" and various outsiders are participating in the meeting and prayers. The outsiders who come to the meeting are parking their vehicles in a zig-zag manner affecting the peace of the area and causing traffic jam. If any individual wants to construct a house, the local residents have got no objection and they are only against the conduct of meetings, prayers and preaching, involving outsiders. Inspite of giving an undertaking before the second respondent in the peace committee meeting, the fifth respondent members are violating the undertaking and the directions issued by the second respondent. Further, he would contend that the members of the fifth respondent are preventing the local residents from sprinkling cow dung water and putting "Kolam" in front of their houses and they are also objecting even if any child in the locality cries stating that their prayers are being affected.

9. Mr.A.Raja Mohammed, learned counsel appearing on behalf of the fifth respondent would submit that the property has been purchased by Mr.Sajid in the name of Tamil Nadu Thowheed Jamath



and for doing services only an office has been put up by the fifth respondent in the said property. He would further submit that many persons including women are participating in the functions and prayers and that there is no disturbance by those persons to the local residents.

10.Mr.T.M.Pappiah, learned Special Government Pleader would submit that a peace committee meeting was conducted by the second respondent and all the parties agreed to the conditions imposed in the order of the second respondent dated 14.12.2016.

11.Though allegations and counter allegations have made against each other private parties, it is admitted by all the parties that there was a peace committee meeting conducted on 08.12.2016 in which representatives of both the private parties participated before the second respondent and based on the decision taken in the said meeting, an order has been passed by the second respondent on 14.12.2016. It is evident from the proceeding dated 14.12.2016 that,

(1).Because of the dispute between the parties, an FIR has been registered on 28.11.2016 in Cr.No.451/2016 under Section 107 Cr.P.C on the file of the fourth respondent.

(2).There was a peace committee meeting conducted by the second respondent on 08.12.2016 in which the representatives of both the private parties participated.

(3).On the side of the fifth respondent, five representatives participated in the meeting.

(4).On the side of the petitioner, six representatives participated in the meeting.

(5).All the parties agreed to the conditions imposed by the second respondent.

12.When the area is a residential area, the atmosphere of the residential area should not be affected by opening an office in the area drawing various outsiders. One persons' religious belief cannot be thrust upon other religious group people who are residing in the area for many years. Merely because the fifth respondent has opened an office recently, it cannot be reason to prevent the Hindu people from leading their normal life by doing customary practices such as sprinkling of cow dung water and putting Kolam in front of their houses. Therefore, it is made clear that the people in the area cannot be prevented from sprinkling cow dung water and putting Kolam in front of other houses and performing any of their religious practices. It is the fundamental right of every Indian citizen to practice his religious belief and faith guaranteed under Article 27 of the Constitution of India. One's practice cannot be considered as objectionable one to the other person merely he practices other religious faith. India is a secular country in which many people of various faiths are living. All religious



people should co-exist in this great country peacefully without causing disturbance to others or hurting faiths of others.

13.As regards the construction of any place of worship, appropriate permission has to be obtained from the District Magistrate/District Collector as per Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972 which reads as follows:

"(4) No site be used for the construction of a building intended for public worship or religious purposes, without the prior approval of the Collector of the district who may refuse such approval, if in his opinion, the use, purpose of the site and building is likely to endanger public peace and order.

Provided that an appeal shall lie against the Collector's decision to the Government who may issue such orders as they deem fit."

A Division Bench of Madurai Bench of this Court in W.P(MD). No.6493, 6494 and 6495 of 2019 by an order dated 19.09.2019 negatived the claim of the petitioners therein seeking mandamus prohibiting the authorities from proceeding with the lock and seal and demolishing of religious institutions situated within Kodaikanal, Kodaikanal Taluk, Dindigul District which have been put up in violation of law. The Division Bench observed that those religious structures have been put up without getting approval under Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972. The relevant portion in Paragraph 8 of the said order is usefully extracted hereunder:

"8.The prayer made in the writ petition is rather sweeping and omnibus in nature. The writ petitioners' case is not that they have put up the structures in question in conformity with law. They are not even praying that the procedure laid down in the law will have to be followed before coercive action is taken. Instead what the petitioners are asking is that the authorities should be prohibited from proceeding with the exercise of locking and sealing and demolishing the illegally put up religious structures."

It is evident from clause (vi) of the order dated 14.12.2016 that so far no permission has been obtained from the authorities for conducting prayer meeting by the private respondent. The order dated 14.12.2016 makes it very clear that if the Muslim people wanted to conduct prayers, they should obtain permission from the District Collector and it would further make it very clear that there cannot be any prayer meeting in the said office. If an office has been constructed, it should function only as an office and no prayers could be conducted by converting/using the office as a place of worship.



14.Further, the construction of a religious structures in one place, at later point of time, cannot be a reason to prevent the people who were already residing in the said area or prohibit them from performing their religious diktats or the way of living as per their religious practices. If such unreasonable demands are accepted, it would violate the secular fabric of the society and it would give raise to a lot of problems. It is specifically stated in the second Respondent's order that Muslims can not object putting Kolams on the roads In view of the above stated position, this Court holds that putting up of construction of any religious structure in any area cannot take away the rights of the other religious people from performing their religious functions or cannot prevent them from performing their religious practices or their way of life as per their religious practices.

15.Right to practice one's religion is guaranteed under Constitution for every citizen of the country and no religion will have upper hand to put down other religions in subservient position. India is the largest democratic and secular country and all people belonging to various religions should live peacefully with harmony and this kind of aberration should not cause disturbance for the peaceful living of the people in this great country.

16.For the aforesaid reasons, there shall be a direction to the official respondents,

(i).To implement the order passed by the second respondent dated 14.12.2016 in letter and spirit and ensure that the same is scrupulously followed.

(ii).The fifth respondent viz., Thowheed Jamath is prohibited from doing any other act contrary to the order dated 14.12.2016 forthwith as no permission has been obtained as per Rule 6(4) of the Tamil Nadu District Municipalities Building Rules, 1972.

In fine, the writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

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Coimbatore District,
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2.The Revenue Divisional Officer,
Coimbatore North,
Office of the Revenue Divisional Officer,
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3.The Tahsildhar,
Mettupalayam Taluk,
Mettupalayam,
Coimbatore District.

4.The Inspector of Police,
Karamadai Police Station,
Karamadai,
Mettupalayam Taluk,
Coimbatore District.

+1cc to Mr.G.Karthikeyan, Advocate SR.No.26688

W.P.No.11825 of 2017

KV (CO)

GMV (06/08/2021)